

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY FOR)
APPROVAL OF THE 2019 PROGRAM FOR THE) PSC DOCKET NO. 19-0080
PROCUREMENT OF SOLAR RENEWABLE ENERGY)
CREDITS (FILED FEBRUARY 13, 2019))

ORDER NO. 9380

AND NOW, this 7th day of May 2019, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on February 13, 2019, pursuant to the Renewable Energy Portfolio Standards Act ("REPSA"), 26 *Del. C.* §§ 351-364, Delmarva Power & Light Company ("Delmarva") filed an application (the "Application") with the Commission requesting approval of its 2019 Program for the Procurement of Solar Renewable Energy Credits (the "2019 Program"); and

WHEREAS, the 2019 Program is based on REPSA requirements as enacted in 2007 and amended in subsequent years. The 2011 Amendments made Delmarva responsible for procuring renewable energy credits ("RECs")¹ and solar renewable energy credits ("SRECs")² necessary for compliance with respect to all energy delivered to Delmarva's distribution customers beginning in compliance year 2012 (June 2012 - May 2013); and

WHEREAS, the 2019 Program is based on recommendations of the Renewable Energy Taskforce (the "Taskforce"), which is charged with making such recommendations to the Commission and other entities.³ See

¹ A "REC" is defined in 26 *Del. C.* § 352(18).

² An "SREC" is defined in 26 *Del. C.* § 352(25).

³ 26 *Del. C.* § 360(d)(2) provides:

The Taskforce shall be charged with making recommendations about and reporting on the following and matters related thereto: a. Establishing balanced markets mechanisms for REC and SREC trading; b. Establishing

26 Del. C. § 360(d), (d)(2), and (d)(3). The 2019 Program is also based on the Pilot Program,⁴ the 2013 Program,⁵ the 2014 Program,⁶ the 2015 Program,⁷ the 2016 Program,⁸ the 2017 Program,⁹ and the 2018 Program¹⁰ (collectively the "SREC Programs") for the Procurement of Solar Renewable Energy Credits, which the Taskforce developed and which the Commission previously approved; and

WHEREAS, the 2018 Program was well subscribed, and the weighted average price for all SRECs was \$28.75 per SREC. Delmarva stated that the auction went smoothly with InClimate Inc., conducting the auction; and

REC and SREC aggregation mechanisms and other devices to encourage the deployment of renewable, distributed renewable, and solar energy technologies in Delaware with the least impact on retail electricity suppliers, municipal electric companies and rural electric cooperatives; c. After an analysis by the Taskforce, the annual progress towards achieving the minimum cumulative percentages for all renewable energy resources including, but not limited to, solar and other eligible energy resources and making appropriate recommendations based upon deliberate and factual analysis and study; d. Minimizing the cost for complying with any portion of this subchapter based upon deliberate and factual analysis and study; e. Establishing revenue certainty for appropriate investment in renewable energy technologies, including, but not limited to, consideration of long-term contracts and auction mechanisms; f. Establishing mechanisms to maximize in-state renewable energy generation and local manufacturing; and g. Ensuring that residential, commercial, and utility-scale photovoltaic and solar thermal systems of various sizes are financially viable and cost-effective investments in Delaware.

26 Del. C. § 360(d)(2).

⁴ The Commission approved the Pilot Program via Order Nos. 8075 (November 8, 2011) and 8093 (December 20, 2011) in PSC Docket No. 11-399.

⁵ The Commission approved the 2013 Program via Order Nos. 8281 (January 22, 2013) and 8450 (September 10, 2013).

⁶ The Commission approved the 2014 Program via Order Nos. 8551 (April 15, 2014) and 8629 (September 9, 2014).

⁷ The Commission approved the 2015 Program via Order Nos. 8717 (March 3, 2015) and 8764 (July 21, 2015).

⁸ The Commission approved the 2016 Program via Order Nos. 8884 (May 3, 2016) and 8890 (September 6, 2016).

⁹ The Commission approved the 2017 Program via Order Nos. 9050 (April 20, 2017) and 9116 (September 14, 2017).

¹⁰ The Commission approved the 2018 Program via Order Nos. 9215 (May 8, 2018) and 9235 (June 19, 2018).

WHEREAS, pursuant to Order No. 9355, Delmarva gave public notice of the Application, the evidentiary hearing date, and various deadlines by publishing notice in the legal classified section of The News Journal on March 25, 2019, and the Delaware State News on March 26, 2019; and

WHEREAS, a deadline for filing written comments on the Application and for any petitions to intervene pursuant to 26 *Del. Admin. C.* § 1001-2.9.2 was established as Friday, April 26, 2019,¹¹ and an evidentiary hearing on this matter was scheduled at the regularly-scheduled Commission meeting on Tuesday, May 7, 2019, beginning at 1:00 p.m.; and

WHEREAS, the Delaware Division of the Public Advocate ("DPA") exercised its statutory right to intervene on February 25, 2019. The Department of Natural Resources and Environmental Control ("DNREC") was the only other party to file a petition for leave to intervene before April 26, 2019; and

WHEREAS, no written comments were received prior to the April 26, 2019 deadline; and

WHEREAS, Staff performed a review of the 2019 Program Application to ensure compliance with Taskforce's recommendations, the Delaware Code, the Commission's Regulations, prior orders, and applicable law; and

WHEREAS, Staff's review noted that the 2019 Program contained a number of changes from the 2018 Program which are enumerated below:

- Tier 1-Less than or equal to 50 kW (Customer-Owned), not interconnected before June 9, 2017.

¹¹ See 26 *Del. Admin. C.* § 1001.1.9.1.

- Tier 2-Greater than 50 kW but less than or equal to 500 kW, not interconnected before August 4, 2018.
- Tier 3-Greater than 500 kW but less than or equal to 2 MW, not interconnected before August 4, 2018.
- Tier 4-In-state systems greater than 2 MW and in-state leased systems, not interconnected before August 4, 2018.
- Tier 5-Out-of-state and all Existing Systems.
- In-state siting requirements for Tiers 1 through 4.
- Bids rejected on the basis of price in any tier cannot be used to backfill another tier.
- Community Solar Projects must enter the tier that is appropriate for their size.

Additionally, the 2019 Program allows the following backfill procedures: The first 10,000 SRECs will only be procured from Tiers 1 through 3. If any tier within the first 10,000 SRECs is undersubscribed because of insufficient bids, that Tier will first be filled by the lowest priced losing bids remaining from Tier 1, 2, or 3, that have not been rejected due to price. If Tiers 1 through 3 remains undersubscribed, the SEU will have the option to use its SRECs banked in accordance with 26 Del. C. § 360(c) to fill the undersubscribed tier at the lowest winning bid price in the applicable undersubscribed tier, that has not been rejected on the basis of price. If the SEU declines to exercise its option or such tier remains undersubscribed after the SEU exercises its option, bids from Tier 4 can be selected to supply those SRECs. If Tier 4 remains insufficiently subscribed due to rejected bids, bids from Tier

5 can be selected to supply those SRECs. In the event that Tier 5 is not sufficiently subscribed, that tier will be filled by the lowest priced losing bids from any tier, provided they have not been rejected on the basis of price; and

WHEREAS, the solicitation for the 2019 Compliance year can initially procure up to 10,000 SRECs, which are allocated per Tier: 4,400 SRECS from Tier 1; 2,300 SRECs from Tier 2; and 3,300 SRECs from Tier 3; and

WHEREAS, after the 10,000 SRECs are procured from Tiers 1 through 3 as described above, Delmarva may procure 5,000 additional SRECs from Tier 4. Thereafter Delmarva may fill any remaining undersubscribed tiers with the lowest bid from any tier and can procure through the auction an additional 5,000 SRECs from Tiers 1 through 5; and

WHEREAS, while the 2019 Program allows Delmarva to reject bids and to procure 5,000 additional SRECs, Delmarva must remain cognizant of future market conditions for SREC pricing as well as the current pricing conditions when accepting offered bids in the auction process; and

WHEREAS, Staff supports the changes to the 2019 Program as stated in Delmarva's Application; and

WHEREAS, while the Taskforce has approved the continued involvement of the SEU in the 2019 Program, for cost recovery purposes it remains Delmarva's burden to show that it could not have performed the functions of the SEU and its contract administrator at a lower overall cost; and

WHEREAS, the Commission, having reviewed the record in this case, including the Application, testimony, and oral argument at the

evidentiary hearing held May 7, 2019, and having deliberated in public at that May 7, 2019, evidentiary hearing;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. The Commission hereby makes its final decision based upon the entire record of the case and grants Delmarva's Application regarding the 2019 Program.

2. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary